

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EARL DAVIS,

Plaintiff,

v.

**CITY OF PHILADELPHIA, et al.
Defendants.**

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**Civil Action
No. 18-1096**

JURY TRIAL DEMANDED

**DEFENDANTS' ANSWER TO COMPLAINT
WITH AFFIRMATIVE DEFENSES**

Defendants, City of Philadelphia, Jacob Rodgers and Thomas Brown (collectively, "Answering Defendants"), by and through the undersigned counsel, hereby respond to the Complaint of Plaintiff Earl Davis as follows:

ANSWER

PARTIES

1. The allegations in this paragraph are based on information within the possession or control of the Plaintiff. Answering Defendants, therefore, are without sufficient knowledge or information to form a belief in the veracity of these averments. All allegations are therefore denied.
2. Admitted.
3. Admitted.
4. Admitted.

FACTUAL ALLEGATIONS

5. Denied as stated. It is admitted only that on April 27, 2017, Defendants Rodgers and Brown responded to a disturbance on the 2000 block of West Spencer Street, at which time they observed two groups tussling in the street, and that Plaintiff

was involved in the disturbance. Plaintiff's allegations that he witnessed his minor special needs daughters being attacked are based on information within the possession or control of the Plaintiff and Answering Defendants are thus without knowledge or information to form a belief in the veracity of these averments. All remaining allegations in this paragraph are denied.

6. Denied as stated. It is admitted only that Answering Defendants, at some point during the encounter, applied control holds, and that Defendant Brown did not personally observe Plaintiff's attempt to punch Defendant Rodgers. The remaining allegations in this paragraph are denied as untrue, inaccurate and/or misleading.
7. These allegations are denied as untrue, inaccurate and/or misleading.
8. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied. By way of further response, Answering Defendants specifically deny that any of their conduct was "wrongful."
9. Denied as stated. It is admitted only that a motion to suppress was granted and that the criminal charges against Plaintiff were withdrawn. The remaining allegations in this paragraph are denied as untrue, inaccurate and/or misleading.
10. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
11. These allegations are denied as untrue, inaccurate and/or misleading.

12. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
13. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
14. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
15. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
16. These allegations are denied as untrue, inaccurate and/or misleading.
17. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
18. These allegations constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

**COUNT I
FALSE IMPRISONMENT**

19. Answering Defendants incorporate by reference their answers to paragraphs 1 through 18, inclusive, as though fully set forth herein.

20. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
21. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
22. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
23. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

COUNT II
ASSAULT AND BATTERY

24. Answering Defendants incorporate by reference their answers to paragraphs 1 through 23, inclusive, as though fully set forth herein.
25. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
26. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

27. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
28. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
29. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
30. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
31. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

**COUNT III
MALICIOUS PROSECUTION**

32. Answering Defendants incorporate by reference their answers to paragraphs 1 through 31, inclusive, as though fully set forth herein.
33. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

34. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
35. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
36. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
37. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
38. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.
39. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

COUNT IV
IMPROPER SEARCH AND SEIZURE

40. Answering Defendants incorporate by reference their answers to paragraphs 1 through 39, inclusive, as though fully set forth herein.

41. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

42. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

43. The allegations contained in this paragraph constitute conclusions of law and/or Plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, these allegations are denied.

WHEREFORE, Answering Defendants deny that they are liable on the causes of action declared herein, and demand judgment in their favor plus interest and costs.

Respectfully Submitted,

Date: March 22, 2018

/s/ Jonathan Cooper
Jonathan Cooper
Assistant City Solicitor
Pa. Attorney ID No. 316374
City of Philadelphia Law Department
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Philadelphia, PA 19102
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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted for each claim set forth in the Complaint.

SECOND AFFIRMATIVE DEFENSE

Each of Plaintiff's claims is barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Answering Defendants assert all of the defenses, immunities, and limitations of damages available to them under the Political Subdivision Tort Claims Act, 42 Pa. C.S.A. § 8541 et seq. and aver that Plaintiff's remedies are limited exclusively thereto.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of qualified immunity because, at all times material hereto, Answering Defendants were carrying out their duties in a proper and lawful manner, and in the exercise of good faith.

FIFTH AFFIRMATIVE DEFENSE

Answering Defendants assert all the defenses available to them under 18 Pa.C.S. § 508.

WHEREFORE, Answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor.

Respectfully Submitted,

Date: March 22, 2018

/s/ Jonathan Cooper

Jonathan Cooper

Assistant City Solicitor

Pa. Attorney ID No. 316374

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CERTIFICATE OF SERVICE

I, Jonathan Cooper, Attorney for Defendants, City of Philadelphia, Jacob Rodgers and Thomas Brown, certify that on this date, a true and correct copy of Defendants' Answer, with Affirmative Defenses, to Plaintiff's Complaint was filed via the Court's electronic filing system and is available for downloading.

Date: March 22, 2018

/s/ Jonathan Cooper

Jonathan Cooper

Assistant City Solicitor

Pa. Attorney ID No. 316374

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